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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed April 21, 2005. In the Office Action, the Examiner notes that claims 1-13, 16, 18, 21-24 and 29 are pending and rejected.

By this response, Applicants have amended claim 1 to correct a minor typographical error. In view of the foregoing amendment and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendment.

REJECTIONS

35 U.S.C. §103

Claims 1-13, 16, 18, 21-24 and 29

The Examiner has rejected claims 1-13, 16, 18, 21-24 and 29 under 35 U.S.C. §103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 6,539,548, hereinafter "Hendricks") in view of Alonso et al. (U.S. Patent No. 6,184,873, hereinafter "Alonso") and further in view of Eyer et al. (U.S. Patent No. 6,160,545, hereinafter "Eyer"). Applicants respectfully traverse the rejection.

The Hendricks reference discloses an operations center for a television program packaging and delivery system. The operations center organizes and packages television programming and program information for delivery to and from consumer homes. It is noted that demographic information is utilized in the context of a computer assisted packaging system (CAP) 260 (along with program ratings) in performing program packaging tasks. Demographic information is generated at the operations center and stored within a database associated with the operations center. That is, demographic data is not provided by the set top terminals; rather, it is determined at the

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operations center by, for example, a marketing information interface (MII) 402. The MII cooperates with the other operations center functions to derive the demographic information and store it therein.

The Alonso arrangement discloses a method and apparatus for accessing the worldwide web using a set top terminal and a video-on-demand system. Essentially, Alonso provides a mechanism whereby visually complex web site imagery and related hyperlinks may be presented using the more rudimentary presentation capabilities of a set top box. Alonso discloses a system in which forward and back data channels are provided between a server and set top box.

Eyer discloses a multi-regional interactive program guide for television. IPG data is provided to set top boxes where it is stored in a database and graphically displayed as needed.

Applicants' amended independent claim 1 recites:

"A method for targeting programming according to subscriber preferences, comprising:

propagating, via a forward application transport channel (FATC), a plurality of video streams representing respective pages of an interactive program guide (IPG), each IPG page depicting programming associated with a respective pair of channel groups and time slots;

polling a plurality of terminals for trend data;

receiving, via a back channel, subscriber selections associated with at least one IPG page;

determining trend data associated with accumulated subscriber selections; and

adapting at least one IPG page in response to said determined trend data." (emphasis added).

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). The Hendricks, Alonso and Eyer references alone or in combination fail to teach Applicants' invention as a whole.

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The cited references, either singly or in any operable combination, fail to disclose a number of elements of the claimed invention, such as "polling a plurality of terminals for trend data" Specifically, as noted in the present application on pages 21-23, trend data is generated by an application executing at a set top terminal. Moreover, trend data includes habit and preference indicative information, such as user interactions with the terminal, with the remote control, demographic information and other information.

As claimed, the trend data of each terminal is periodically retrieved by a polling of the various terminals. The claimed invention also includes the step of "determining the trend data associated with accumulated subscriber selections" That is, the trend data "associated with accumulated subscriber selections" is determined, rather than trend data associated with demographic information.

As claimed, in response to the determination of trend data associated with the accumulated subscriber selections, the claim further states the step of "adapting at least one IPG page in response to said determined trend data."

Thus, it is important to note that (1) the trend data of the present invention includes subscriber selections made at a subscriber terminal (rather than the basic demographic information discussed in Hendricks); (2) the trend data of the present invention is generated at a subscriber terminal (rather than being generated at an operations center as in Hendricks); and (3) the adaptation of an IPG page (rather than a television package as in Hendricks) is made in response to determined trend data associated with accumulated subscriber selections (rather than the simple demographic data stored in the Hendricks operations center).

The Alonso and Eyer references, either singly or in any combination, fail to bridge the substantial gap between the Hendricks reference and the claimed invention. Specifically, neither Alonso nor Eyer discuss trend data as defined and claimed within the present patent application. Moreover, the combination of all three references fails to disclose or suggest "adapting at least one IPG page in response to said determined trend data." This is not surprising, since the trend data as claimed is entirely different than the demographic data discussed by Hendricks, while the IPG pages of the present invention are different than the package lists provided by Hendricks.

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As such, Applicants submit that claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-13, 16, 18, 21-24, and 29 depend, either directly or indirectly, from independent claim 1 and recite additional features thereof. As such, and at least for the same reasons as discussed above, Applicants submit that these dependent claims also fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

THE SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

CONCLUSION

Applicants believe all the claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of an adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

6/21/05

EJ Wall

Eamon J. Wall, Attorney
Registration No. 39,414
(732) 530-9404

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Moser, Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702

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